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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/830,074	04/23/2001	Gerhard Coufal	2001-0462A	9813

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EXAMINER

BALASUBRAMANIAN, VENKATARAMAN

ART UNIT PAPER NUMBER

1624

DATE MAILED: 02/03/2003 //

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action**

Application No.

09/830,074

Applicant(s)

COUFAL, GERHARD

Examiner

Venkataram Balasubramanian

Art Unit

1624

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 04 December 2002 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY [check either a) or b)]**

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see Note below);
- (c) ☒ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_.

3. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☐ The a) ☐ affidavit, b) ☐ exhibit, or c) ☐ request for reconsideration has been considered but does NOT place the application in condition for allowance because: \_\_\_\_\_.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☐ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: \_\_\_\_\_.

Claim(s) objected to: \_\_\_\_\_.

Claim(s) rejected: \_\_\_\_\_.

Claim(s) withdrawn from consideration: \_\_\_\_\_.

8. ☐ The proposed drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_.
10. ☒ Other: See attached

### ADVISORY ACTION

The amendment filed 12/04/2002 under 37 CFR 1.116 in reply to the final rejection has been considered but is not deemed to place the application in condition for allowance and will not be entered for the following reasons. Applicants' response which included cancellation of claims 1-14 and addition of new claims 15-26, is also acknowledged.

1. Claims 1-3, 5-7, 9, and 12-14 are rejected under 35 U.S.C. 102(b) as being anticipated by Kokubo et al. US 3,637,686 for reasons of record. Note this rejection is same as made in the previous office action

Applicants' traversal to overcome this rejection is not persuasive. Applicants assert that whereas Kokubo et al. teaches solidified melamine obtained from cooling with ammonia is treated with aqueous ammonia, instant process differs in requiring that the melamine melt be cooled 1 to 50 ° C before treating with aqueous ammonia and that this limitation is not taught by Kokubo et al. This is not a persuasive argument. First of all, there is no showing that applicants' process controls the temperature to such and extent that a one degree variation (i.e. 1° C below the melting point of melamine-the solidification point)) or a small variation is never permitted. Secondly, the claim language permits "about 1° C, which can include the solidification temperature of melamine.

Furthermore, Kokubo et al. clearly teaches cooling molten melamine. See lines 59-64.

Art Unit: 1624

Hence one trained in the art would know that such a small variation in temperature is permissible in such industrial process and would consider few degree variations from the teaching of Kokubo et al. as acceptable. See *In re Petering et al* 133 USPQ 275; *In re Schaumann*, 195 USPQ 5, *In re Sivaramakrishnan* 213 USPQ 441 wherein a small genus is attested to be anticipated by single exemplified species in the genus.

Hence the rejection is proper and is maintained.

Claims 1-3, 5-7, 9-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kokubo et al. US 3,637,686 in view of Elvers et al. Ullmann's Encyclopedia of Industrial Chemistry, 5th Edition, vol. A16, 174-179, 1978 for reasons of record. The rejection is same as made in the previous office

Applicants' argument to overcome this rejection is not persuasive.

1. The applicants' traversal as related to the choice of temperature is not persuasive as noted on col. 2 lines 61-64 Kokubo et al. et also uses molten melamine which has to be little above the melting point of melamine to be molten.
2. Again as noted before, one trained in the art would know that given the identical conditions as in the comparative experiments, a variation in temperature would influence the rate of the reaction base on his knowledge of Arrhenius equation to improve yield and purity.

Again, note the court held, 'generally, differences in concentration or temperature will not support the patentability of subject matter encompassed by the prior art

Art Unit: 1624

unless there is evidence indicating such concentration or temperature is critical.

"[W]here the general conditions of a claim are disclosed in the prior art, it is not inventive to discover the optimum or workable ranges by routine experimentation." In re Aller, 220 F.2d 454, 456, 105 USPQ 233, 235 (CCPA 1955).

Claims 1-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Canzi et al. US 5,721,363 in view of Van Hardeveld US 4,408,046 for reasons of record. The rejection is same as made in the previous office action.

Applicants' argument to overcome this rejection is not persuasive.

1. Contrary to applicants' urging, Canzi et al. teaches cooling of melamine at a temperature above the melting point of melamine. See col. 4
2. Van Hardeveld et al. clearly teaches treatment of melamine both from high pressure and low pressure process to obtain high purity melamine.
3. Applicants have not shown why combination of these two art would not be an obvious variant. See above discussion of the declaration, which is deemed, as not acceptable.

Hence the rejection is proper and is maintained.

#### Conclusion

Any inquiry concerning this communication from the examiner should be addressed to Venkataraman Balasubramanian (Bala) whose telephone number is (703) 305-1674. The examiner can normally be reached on Monday through Thursday from

Art Unit: 1624

8.00 AM to 6.00 PM. The Supervisory Patent Examiner (SPE) of the art unit 1624 is Mukund Shah whose telephone number is (703) 308-4716.


The fax phone number for the organization where this application or proceeding is assigned (703) 308-4556.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1235.

VP

V. Balasubramanian

1/31/2003

  
JOHN M. FORD  
PRIMARY EXAMINER  
GROUP - ART UNIT 1624